

PART 4284 - GRANTS

Subpart A - General Requirements for Cooperative Services Grant Programs

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PART 4284 - GRANTS

Subpart A - General Requirements for Cooperative Services Grant Programs

§ 4284.1 Purpose.

The purpose of this subpart is to set forth definitions and requirements which are common to all grant programs set forth in this part administered by Cooperative Services within the Rural Business-Cooperative Service (RBS). Programs administered by the Business Programs within RBS are not affected by this subpart.

§ 4284.2 Policy.

It is the policy of Cooperative Services to administer grant programs as uniformly as possible to minimize unnecessary inconsistencies in the administration of the grant programs provided for in this part. The specific provisions or definitions provided in the subparts that are specific to Cooperative Services are supplemental to these general provisions. Where a specific program provision is expressly different from what is provided in this subpart, the program specific subpart shall prevail.

§ 4284.3 Definitions.

Agency - Rural Business-Cooperative Service (RBS), an agency of the United States Department of Agriculture (USDA), or a successor agency.

Agricultural Producer - Persons or entities, including farmers, ranchers, loggers, agricultural harvesters and fishermen, that engage in the production or harvesting of an agricultural product. Producers may or may not own the land or other production resources, but must have majority ownership interest in the agricultural product to which Value-Added is to accrue as a result of the project. Examples of agricultural producers include: a logger who has a majority interest in the logs harvested that are then converted to boards, a fisherman that has a majority interest in the fish caught that are then smoked, a wild herb gatherer that has a majority interest in the gathered herbs that are then converted into essential oils, a cattle feeder that has a majority interest in the cattle that are fed, slaughtered and sold as boxed beef, and a corn grower that has a majority interest in the corn produced that is then converted into corn meal. *An agricultural producer is a farmer, rancher, fisherman, or forestry harvester who produces or harvests (and owns)*

*the product to which value will be added. An agricultural producer is not an entity (including an individual) who buys an agricultural product from someone else and then adds value. An agricultural producer adding value to his or her product can purchase additional product up to the amount of their own product. That is, over 50 percent of the product to which value is being added must be produced by the agricultural producer.*

Agriculture Producer Group - An organization that represents Independent Producers, whose mission includes working on behalf of Independent Producers and the majority of whose membership and board of directors is comprised of Independent Producers. *Agricultural producer groups include general farm organizations such as the Farm Bureau, national commodity groups such as the American Soybean Association, and state commodity groups such as the Iowa Corn Growers Association. It is very important that the agriculture producer group identifies a specific set of producers they are helping. It cannot be their entire membership because there is an appearance that grant funds are being used to fund the organization's general operations. Research and promotion boards can qualify if the project qualifies as a value-added project and if they identify the producers involved. The producers should be identified by name.*

Agricultural Product - Plant and animal products and their by-products to include forestry products, fish and seafood products.

Cooperative Services - The office within RBS, and its successor organization, that administers programs authorized by the Cooperative Marketing Act of 1926 (7 USC 451 et seq.) and such other programs so identified in USDA regulations.

Economic development - The economic growth of an area as evidenced by increase in total income, employment opportunities, decreased out-migration of population, value of production, increased diversification of industry, higher labor force participation rates, increased duration of employment, higher wage levels, or gains in other measurements of economic activity, such as land values.

Emerging Market - A new or developing market for the applicant, which the applicant has not traditionally supplied. *An emerging market is a new or developing market for the applicant. That is, a market the applicant has not traditionally supplied. It can be a new product going into a new or existing market. It can be an old product going into a new market. The venture must be focused on this new or developing market.*

Farmer or Rancher Cooperative - A farmer or rancher-owned and controlled business from which benefits are derived and distributed equitably on the basis of use by each of the farmer or rancher owners. *Those states that have cooperative incorporation statutes that allow non-producer membership and*

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*investment must be treated as a majority-controlled producer-based business venture. In these cases, producer ownership and control must be greater than 50 percent.*

Fixed equipment - Tangible personal property used in trade or business that would ordinarily be subject to depreciation under the Internal Revenue Code, including processing equipment, but not including property for equipping and furnishing offices such as computers, office equipment, desks or file cabinets. *Fixed equipment also includes mobile processing equipment that can be move from one location to another including into the field of an agricultural producer.*

Independent Producers - Agricultural producers, individuals or entities (including for profit and not for profit corporations, LLCs, partnerships or LLPs), where the entities are solely owned or controlled by Agricultural Producers who own a majority ownership interest in the agricultural product that is produced. An independent producer can also be a steering committee composed of independent producers in the process of organizing an association to operate a Value-Added venture that will be owned and controlled by the independent producers supplying the agricultural product to the market. Independent Producers must produce and own the agricultural product to which value is being added. Producers who produce the agricultural product under contract for another entity but do not own the product produced are not independent producers. *Independent producers must supply product they produce and own to the value-added venture. Steering committees awarded a grant must form a legal entity or an individual member of the steering committee must assume individual responsibility for the steering committee and that individual must understand the liability issues associated with assuming that responsibility before grant funds will be released.*

Majority-Controlled Producer-Based Business Venture - A venture where more than 50% of the ownership and control is held by Independent Producers, or, partnerships, LLCs, LLPs, corporations or cooperatives that are themselves 100 percent owned and controlled by Independent Producers. *Only 10 percent of available VAPG funds can be awarded to this type of applicant. Independent producers must own more than 50 percent of the venture and they must control more than 50 percent of the venture.*

Matching Funds - Cash or confirmed funding commitments from non-Federal sources unless otherwise provided by law. Unless otherwise provided, matching funds must be at least equal to the grant amount. Unless otherwise provided, in-kind contributions that conform to the provisions of 7 CFR 3015.50 and 7 CFR 3019.23, as applicable, can be used as matching funds. Examples of in-

kind contributions include volunteer services furnished by professional and technical personnel, donated supplies and equipment, and donated office space. Matching funds must be provided in advance of grant funding, such that for every dollar of grant that is advanced, not less than an equal amount of match funds shall have been funded prior to submitting the request for reimbursement. Matching funds are subject to the same use restrictions as grant funds. Funds used for an ineligible purpose will not be considered matching funds. *Matching funds can be provided by the applicant as well as from third party sources. Matching funds from the applicant that are salaries, plant wages, utilities, and other direct cash payments are to be considered cash matches, not in-kind matches, and they must be verified by a bank statement submitted at the time of application.*

National Office - USDA RBS headquarters in Washington, D.C.

Nonprofit institution - Any organization or institution, including an accredited institution of higher education, no part of the net earnings of which may inure, to the benefit of any private shareholder or individual.

Product segregation - Physical separation of a product or commodity from similar products. Physical separation requires a barrier to prevent mixing with the similar product.

Public body - Any state, county, city, township, incorporated town or village, borough, authority, district, economic development authority, or Indian tribe on federal or state reservations or other federally recognized Indian tribe in rural areas.

RFP - Request for Proposals.

Rural and rural area - includes all the territory of a state that is not within the outer boundary of any city or town having a population of 50,000 or more and the urbanized area contiguous and adjacent to such city or town, as defined by the U.S. Bureau of the Census using the latest decennial census of the United States.

Rural Development - A mission area within the USDA consisting of the Office of Under Secretary for Rural Development, Office of Community Development, Rural Business-Cooperative Service, Rural Housing Service and Rural Utilities Service and their successors.

State - includes each of the several States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and, as may be determined by the Secretary to be feasible, appropriate and lawful, the Freely Associated States and the Federated States of Micronesia.

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State Office - USDA Rural Development offices located in each state.

Value-Added - The incremental value that is realized by the producer from an agricultural commodity or product as the result of a change in its physical state, differentiated production or marketing, as demonstrated in a business plan, or Product segregation. Also, the economic benefit realized from the production of farm or ranch-based renewable energy. Incremental value may be realized by the producer as a result of either an increase in value to buyers or the expansion of the overall market for the product. Examples include milling wheat into flour, slaughtering livestock or poultry, making strawberries into jam, the marketing of organic products, an identity-preserved marketing system, wind or hydro power produced on land that is farmed and collecting and converting methane from animal waste to generate energy. Identity-preserved marketing systems include labeling that identifies how the product was produced and by whom.

§ 4284.4 Appeals.

Any appealable adverse decision made by the Agency may be appealed in accordance with USDA appeal regulations found at 7 CFR part 11 and subpart B of part 1900. If the Agency makes a determination that a decision is not appealable, a participant may request that it be reviewed by the Director of the National Appeals Division.

## § 4284.5 [Reserved]

§ 4284.6 Applicant eligibility.

An outstanding judgment obtained against an applicant by the United States in a Federal Court (other than in the United States Tax Court), which has been recorded, shall cause the applicant to be ineligible to receive any assistance until the judgment is paid in full or otherwise satisfied. RBS grant funds may not be used to satisfy the judgment. *No grant funds can be used to pay creditors in a bankruptcy proceeding except for creditors who performed services as outlined in the original or amended grant proposal.*

§ 4284.7 Electronic submission.

Applicants and grant awardees are encouraged, but not required, to submit applications and reports in electronic form as prescribed in requests for proposals issued by USDA and in the applicable grant agreements. *Applicants are also encouraged to use the Federal Government's e-grant application portal, when available.*

§ 4284.8 Grant approval and obligation of funds.

The following statement will be entered in the comment section of the Request for Obligation of Funds, which must be signed by the grantee:

"The grantee certifies that it is in compliance with and will continue to comply with all applicable laws, regulations, Executive Orders and other generally applicable requirements, including those contained in 7 CFR part 4284 and 7 CFR parts 3015, 3016, 3017, 3018, 3019 and 3052 in effect on the date of grant approval, and the approved Letter of Conditions."

§ 4284.9 Grant disbursement.

The Agency will determine, based on 7 CFR parts 3015, 3016 and 3019, as applicable, whether disbursement of a grant will be by advance or reimbursement. The Agency may limit the frequency in which a Request for Advance or Reimbursement may be submitted. *The maximum frequency a grant recipient may submit a "Request for Advance or Reimbursement" is once a month. Grant recipients are entitled to receive payment by advance as long as they meet the financial management requirements published in 7 CFR 3016 or 7 CFR 3019, as applicable. Recipients who do not meet the financial management requirements must be paid on a reimbursement basis.*

§ 4284.10 Ineligible grant purposes.

Grant funds may not be used to:

- (a) Duplicate current services or replace or substitute support previously provided. If the current service is inadequate, however, grant funds may be used to expand the level of effort or services beyond what is currently being provided;
- (b) Pay costs of preparing the application package for funding under this program;
- (c) Pay costs of the project incurred prior to the date of grant approval; *The Agency may choose to allow project costs incurred prior to the start of the grant at its discretion. Grant recipients must request the approval at the time of the grant award.*
- (d) Fund political activities;
- (e) Pay for assistance to any private business enterprise which does not have a least 51 percent ownership by those who are either citizens of the United States or reside in the United States after being legally admitted for permanent residence;

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- (f) Pay any judgment or debt owed to the United States;
- (g) Plan, repair, rehabilitate, acquire, or construct a building or facility (including a processing facility);
- (h) Purchase, rent or install Fixed Equipment;
- (i) Pay for the repair of privately owned vehicles; or
- (j) Fund research and development.

§ 4284.11 Award requirements.

In addition to specific grant requirements, all approved applicants will be required to do the following:

- (a) Enter into a grant agreement with USDA in form and substance similar to the form of agreement as may be published within or as an appendix to the applicable RFP;
- (b) Submit a feasibility study and business plan showing the viability of the venture, if any Federal grant and matching funds are to be used as working capital; *The feasibility study and business plan must meet the approval of the Agency before any grant funds will be released. Feasibility studies are economic feasibility studies and should follow the format of Appendix A of RD Instruction 4279-B.*
- (c) Use "Request for Advance or Reimbursement" to request advances or reimbursements, as applicable, but not more frequently than once a month;
- (d) Maintain a financial management system that is acceptable to the Agency; and
- (e) Collect and maintain data on race, sex and national origin of the beneficiaries of the project.

§ 4284.12 Reporting requirements.

Grantees must submit the following to USDA:

- (a) A "Financial Status Report" listing expenditures according to agreed upon budget categories, on a semi-annual basis. Reporting

periods end each March 31 and September 30. Reports are due 30 days after the reporting period ends. *Failure to submit the required reports within the specified time frame is considered cause for suspension or termination of the grant.*

(b) Semi-annual performance reports that compare accomplishments to the objectives stated in the proposal. Identify all tasks completed to date and provide documentation supporting the reported results. If the original schedule provided in the work plan is not being met, the report should discuss the problems or delays that may affect completion of the project. Objectives for the next reporting period should be listed. Compliance with any special condition on the use of award funds should be discussed. Reports are due as provided in paragraph (a) of this section. The supporting documentation for completed tasks include, but are not limited to, feasibility studies, marketing plans, business plans, articles of incorporation and bylaws and an accounting of how working capital funds were spent. *Failure to submit the required reports within the specified time frame is considered cause for suspension or termination of the grant.*

(c) Final project performance reports, inclusive of supporting documentation. The final performance report is due within 30 days of the completion of the project. *If results are not demonstrated, the Agency reserves the right to disallow costs incurred under the grant. If such a disallowance is made, the Grantee has the obligation to repay any funds already disbursed by the Agency for disallowed costs.*

§ 4284.13 Confidentiality of reports.

All reports submitted to the Agency will be held in confidence to the extent permitted by law.

§ 4284.14 Grant servicing.

Grants will be serviced in accordance with 7 CFR part 1951, subparts E and O. Grantees will permit periodic inspection of the program operations by a representative of the Agency. All non-confidential information resulting from the Grantee's activities shall be made available to the general public on an equal basis. *Rural Development field staff will be responsible for servicing and monitoring grants. On-site visits should be conducted annually at a minimum. Additional site visits should be conducted if there are performance problems. The site visit should include a review of all documentation supporting costs paid with grant funds.*

§ 4284.15 Performance reviews.

(a) USDA will incorporate performance criteria in grant award documentation and will regularly evaluate the progress and performance of grant awardees.

(b) USDA may elect to suspend or terminate a grant in all or part, or funding of a particular workplan activity, but nevertheless fund the remainder of a request for an advance or reimbursement, as applicable, where USDA has determined:

(1) that the grantee or subrecipient of grant funds has demonstrated insufficient progress in complying with the terms of the grant agreement; *If the Rural Development field staff believe the recipient's project is not adequately performing or progressing according to the work plan and timeline outlined in the original or amended proposal, they should first work with and help the recipient correct the situation. If performance or progress problems persist, the field staff should contact the National Office to develop a plan of action to resolve the situation.*

(2) there is reason to believe that other sources of joint funding have not been or will not be forthcoming on a timely basis; or *(If the field staff believes the recipient is not complying with the matching funds requirements, they should work with the recipient and help them come back into compliance. If the matching funds problems continue, the field staff and the National Office staff will work together to resolve the problem).*

(3) such other cause as USDA identifies in writing to the grantee (including but not limited to the use of federal grant funds for ineligible purposes). *The field staff should first work with the recipient to resolve the problem. If the problem persists, the field staff and the National Office will work together to resolve the situation.*

§ 4284.16 Other considerations.

(a) Environmental review. All grants made under this subpart are subject to the requirements of 7 CFR part 1940, subpart G. Applications for technical assistance or planning projects are generally excluded from the environmental review process by § 1940.333, provided the assistance is not related to the development of a specific site. Applicants for grant funds must consider and document within their plans the important environmental factors within the planning area and the potential environmental impacts of the plan on the

planning area, as well as the alternative planning strategies that were reviewed. *Planning grants, because they are not site specific, are exempt from 7 CFR 1940 subpart G. Working capital grants must go through the category exclusion checklist.*

(b) Civil rights. All grants made under this subpart are subject to the requirements of title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color and national origin as outlined in 7 CFR part 1901, subpart E. In addition, the grants made under this subpart are subject to the requirements of section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of disability; the requirements of the Age Discrimination Act of 1975, which prohibits discrimination on the basis of age; and title III of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability by private entities in places of public accommodations. This program will also be administered in accordance with all other applicable civil rights law.

(c) Other USDA regulations. The grant programs under this part are subject to the provisions of the following regulations, as applicable:

- (1) 7 CFR part 3015, Uniform Federal Assistance Regulations;
- (2) 7 CFR part 3016, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments;
- (3) 7 CFR part 3017, Governmentwide Debarment and Suspension (nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants);
- (4) 7 CFR part 3018, New Restrictions on Lobbying;
- (5) 7 CFR part 3019, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-profit Organizations; and
- (6) 7 CFR part 3052, Audits of States, Local Governments and Non-profit Organizations.

§ 4284.17 Member delegate clause.

No member of Congress shall be admitted to any share or part of a grant program or any benefit that may arise there from, but this provision shall not be construed to bar as a contractor under a grant a publicly held corporation whose ownership might include a member of Congress.

§ 4284.18 Audit requirements.

Grantees must comply with the audit requirements of 7 CFR part 3052. The audit requirements apply to the years in which grant funds are received and years in which work is accomplished using grant funds. *All grant recipients expending Federal funds over \$500,000 must be audited according to OMB circular A-133. Recipients expending less than \$500,000 may be required to do program specific audits at the discretion of the Agency.*

§ 4284.19 Programmatic changes.

The Grantee shall obtain prior approval for any change to the scope or objectives of the approved project. Failure to obtain prior approval of changes to the scope of work or budget may result in suspension, termination and recovery of grant funds.

§§ 4284.20 - 4284.99 [Reserved]

§ 4284.100 OMB control number.

The information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 0570-0045.